

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) Criminal Action No.
) 04-00283-02/05-CR-W-HFS
CLEON McKINNEY,)
and)
JAIME GARZA,)
)
Defendants.)

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on December 30, 2005. Defendant McKinney appeared in person and with appointed counsel Kurt Marquart. Defendant Garza appeared in person and with appointed counsel Bruce Houdek. The United States of America appeared by Assistant United States Attorney Catherine Connelly.

I. *BACKGROUND*

On September 4, 2004, an indictment was returned charging both defendants with one count of conspiracy to distribute cocaine, in violation of 21 U.S.C. § 846.

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Ms. Connelly announced that she will be the trial counsel for the government. The case agent to be seated at counsel table is Brian Parish, DEA.

Mr. Marquart announced that he will be the trial counsel for Defendant McKinney.

Mr. Houdek announced that he will be the trial counsel for Defendant Garza.

III. OUTSTANDING MOTIONS

There are no pending motions in this case.

IV. TRIAL WITNESSES

Ms. Connelly announced that the government intends to call twelve witnesses without stipulations or ten witnesses with stipulations during the trial.

Mr. Marquart announced that Defendant McKinney intends to call two witnesses during the trial. Defendant McKinney may testify.

Mr. Houdek announced that Defendant Garza intends to call two witnesses during the trial. Defendant Garza may testify.

V. TRIAL EXHIBITS

Ms. Connelly announced that the government will offer approximately fourteen exhibits in evidence during the trial.

Mr. Marquart announced that Defendant McKinney will not offer any exhibits in evidence during the trial.

Mr. Houdek announced that Defendant Garza will not offer any exhibits in evidence during the trial.

VI. DEFENSES

Mr. Marquart announced that Defendant McKinney will rely on the defense of general denial.

Mr. Houdek announced that Defendant Garza will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Marquart and Mr. Houdek both stated this case is probably not for trial.

VIII. STIPULATIONS

Stipulations are likely as to chain of custody.

IX. TRIAL TIME

Counsel were in agreement that this case will take three days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed on February 25, 2005, and October 13, 2005, respectively, counsel for each party file and serve a list of exhibits they intend to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by or before December 30, 2005;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, January 4, 2006;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, January 4, 2006. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and, if available to counsel, 3 and ½ inch computer disk in a form compatible with WordPerfect 9.0, 10.0, or 11.0.

XI. UNUSUAL QUESTIONS OF LAW

No motions in limine are anticipated and there are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendants were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on January 9, 2006. Mr. Marquart advised that he will be seeking a continuance, which will be filed on Tuesday, January 3, 2006. Neither the government nor co-defendant Garza object to the grant of a continuance.

/s/ Robert E. Larsen
ROBERT E. LARSEN
U. S. Magistrate Judge

Kansas City, Missouri
December 30, 2005

cc: The Honorable Howard F. Sachs
Ms. Catherine Connelly
Mr. Kurt Marquart
Mr. Bruce Houdek
Mr. Jeff Burkholder